

**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD**

HON'BLE Ms. JUSTICE G. ROHINI

Writ Petition No.7728 of 2006

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Dated: January 4, 2007
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Between:

Dadisetti Surya Rao, S/o. Somulu, aged about 64
Years, residing at Ravilanka Village, Devipatnam
Mandal, East Godavari District.

... Petitioner

And

The Government of Andhra Pradesh, represented
by its Secretary, Social Welfare (LRT-2) Department,
Secretariat, Hyderabad, and others.

... Respondents

Order:

The petitioner claims to be the absolute owner of Ac.6.55 cents of land in Sy.No.80 of M. Ravilanka Village, Devipatnam Mandal, East Godavari District. On a complaint made by the Special Deputy Tahsildar (Tribal Welfare) Devipatnam alleging that petitioner is in possession of the land in question in contravention of the provisions of A.P. Scheduled Areas Land Transfer Regulation 1 of 1959 (for short 'the Regulation 1 of 1959') eviction proceedings were initiated in L.T.R.P.No.300 of 2002 by the Special Deputy Collector (TW), Rampachodavaram. After due enquiry, by order dated 17-09-2003,

LTRP.No.300 of 2002 was allowed directing ejection of the petitioner. Aggrieved by the said order, petitioner preferred C.M.A.No.12 of 2004 before the Additional Agent to Government-second respondent. The said appeal was dismissed by order dated 29-10-2005 directing the 5th respondent herein to evict the petitioner from the land in question. Challenging the said order, petitioner preferred a revision before the first respondent, which is still pending. Along with the Revision Petition, the petitioner filed an application seeking suspension of the order of the second respondent dated 29-10-2005. However, by order dated 03-03-2006, the said application was rejected by the 1st respondent. It is pleaded by the petitioner that he raised a mango garden in the schedule land and continued in possession pending the proceedings before the respondents 2 and 3. However, taking advantage of the fact that the first respondent refused to grant any interim order, the Mandal Revenue Officer had dispossessed him and not allowed him to enter into the land even for harvesting the crop.

Hence, this writ petition seeking a Mandamus to suspend the order of the second respondent dated 29-10-2005 pending the Revision Petition and consequently to direct the fifth respondent to restore the possession of the land in question to the petitioner.

While placing reliance upon a decision of this court in **Mamillapalli Chinakoteswara Rao and others V. Mandal Revenue Officer, Buttaigudem Mandal, and others**^[1], the learned counsel for the petitioner contended that the order of eviction passed by the Special Deputy Collector under Section 3 (2) of the Regulation 1 of 1959 should be executed like a decree for ejectment by Civil Court by following the procedure prescribed under Rule 7 (4) of the A.P. Scheduled Areas Land Transfer Rules, 1969 (for short 'the Rules'). It

is contended that since no Execution Petition was filed the petitioner ought not to have been dispossessed forcibly and therefore the 5th respondent shall be directed to restore the land in question to the petitioner forthwith.

Separate counter affidavits have been filed on behalf of respondents 1 to 5 as well as respondents 6 to 11, who got themselves impleaded.

I have heard learned counsel for both the parties and perused the material on record.

The correctness of the findings recorded by the Special Deputy Collector as well as the appellate authority that the possession of the petitioner is in contravention of the provisions of the Regulation 1 of 1959 requires to be decided by the 1st respondent, in the Revision pending on its file. As such, it is not proper for this Court to express any opinion on merits.

So far as the relief sought by the petitioner for restoration of the land in question is concerned, it is to be noted that whether the procedure prescribed under Rule 7(4) of the A.P. Scheduled Areas Land Transfer Rules, 1969 has been followed or not itself is a disputed question of fact which requires consideration on appreciation of the evidence that may be produced by the parties. At any rate, since the Revision is pending before the 1st respondent, I am not inclined to go into that issue at this stage.

Accordingly, without expressing any opinion on merits, the writ petition is disposed of with a direction to the first respondent to dispose of the Revision Petition filed by the petitioner against the order in C.M.A.No.12 of 2004 dated 29-10-2005, as expeditiously as possible, preferably within a period of three months from the date of receipt of this order. Till such time, status quo obtaining as on today as

to the nature and possession of the land in question shall be maintained. It is also made clear that the amount kept in deposit in the Bank pursuant to the order of this Court in W.P.M.P.No.11182 of 2006 dated 26-04-2006 shall be subject to final order that may be passed by the 1st respondent in the Revision Petition.

Writ Petition is accordingly disposed of. No order as to costs.

JUSTICE G. ROHINI.

January 4, 2007
MRR

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